



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/699,685

11/04/2003

Doughan A. Turk

86503-72

4910

28291 7590 08/24/2009
SMART & BIGGAR
1000 DE LA GAUCHETIERE ST. W.
SUITE 3300
MONTREAL, QC H3B 4W5
CANADA

EXAMINER

VU, VIET DUY

ART UNIT

PAPER NUMBER

2454

MAIL DATE

DELIVERY MODE

08/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/699,685	Applicant(s) TURK ET AL.	
	Examiner Viet Vu	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,11-13,16-18,21,22,27,29,32,33,37,40-42,47-49,52,53 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,11-13,16-18,21-22,27,29,32-33,37,40-42,47-49,52-53,57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2454

Objection to the specification:

1. Claims 16 and 52 are invalid dependent claims because they depend on canceled claims. Correction is required.

Art Rejections:

2. The texts of 35 U.S.C. 103(a) cited in the previous office action are hereby incorporated by reference.

3. Claims 1, 4-6, 16, 18, 21, 22, 33, 37, 40-42, 52 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jungck, U.S. pat. No. 7,032,031.

Per claims 1 and 4-5, Jungck discloses a system for analyzing network traffic comprising:

- a) a plurality of subscriber units and an edge router interconnected by a first network, said first network operable to direct routed traffic to an appropriate subscriber unit and further operable to direct unrouted traffic to the edge router (see col 23, lines 23-44); and
- b) an analyzer connected to the edge router for determining a misconfiguration of a network routing table in a second network adjacent to the first network based on patterns of activity within said unrouted traffic, wherein the misconfiguration includes of security attack/breach detection (see col 26, lines

Art Unit: 2454

48-54) or detection of a forged source packet that did not come from adjacent downstream network (see col 29, lines 20-35).

Jungck does not explicitly call the edge router as default router. It would have been obvious to one of ordinary skill in the art at the time of the invention to recognize that edge router would play such a role of default router because it would intercept all (unrouted) DNS requests (see col 26, lines 28-31).

Per claim 6, Jungck does not teach applying penalty such as fine to individual user who are sources of prohibited traffic. It would have been obvious to one skilled in the art to apply such action in Jungck because it would have enabled deterring transmitting/spreading prohibited data traffic in the network.

Per claim 16, it is noted that a user is typically charged a fee for using the network (see col 5, lines 31-34).

Claims 18, 21, 22, 33, 37, 40-42, 52 and 57 are rejected for the same rationale set forth above for claims 1-2, 4-6 and 16-17.

4. Claims 11-13, 17, 27-29, 32, 47-49 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jungck, and further in view of Liston, U.S. pat. Appl. Pub. No. 2004/0103314.

Art Unit: 2454

Per claims 11-13, 27-29 and 47-49, Jungck does not explicitly disclose a honey pot. The use of honey pot to attract and detect attempts to scan unused IP addresses in the network is well known in the art as disclosed by Liston (see Liston in par. 37). It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize honey pot in Jungck because it have enabled the system to detect attempt to scan unused IP addresses in the network (see Liston in par. 37).

Per claims 17, 32 and 53, it is noted that the use of regularly updated definition of known patterns of malicious traffic for detecting new malicious network attacks is well known in the art (see Liston in par. 4-11).

Response to Amendment:

5. Applicant's arguments filed on May 28, 2009 with respect to claims 1, 4-6, 11-13, 16-18, 21, 22, 27-29, 32, 33, 37, 40-42, 47-49, 52, 53 and 57 have been fully considered but are deemed moot in view of new grounds of rejection set forth above.

Conclusion:

6. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P.

Art Unit: 2454

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Viet Vu/
Primary Examiner, Art Unit 2454
8/19/09